

# House File 2003 - Introduced

HOUSE FILE \_\_\_\_\_  
BY HEATON

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the removal of highway obstructions by highway  
2 authorities on secondary roads.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 5053YH 82  
5 md/rj/5

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1 1 Section 1. Section 318.5, Code 2007, is amended to read as  
1 2 follows:

1 3 318.5 REMOVAL AND COST.

1 4 1. The following shall apply to the removal of  
1 5 obstructions on primary roads:

1 6 ~~1. a.~~ An obstruction in a highway right-of-way which  
1 7 constitutes an immediate and dangerous hazard shall, without  
1 8 notice or liability in damages, be removed by the highway  
1 9 authority.

1 10 ~~2. b.~~ An obstruction not constituting an immediate and  
1 11 dangerous hazard shall be removed by the highway authority  
1 12 without liability after forty-eight-hour notice served in the  
1 13 same manner in which an original notice is served, or in  
1 14 writing by certified mail, or in any other manner reasonably  
1 15 calculated to apprise the person responsible for the  
1 16 obstruction that the obstruction will be removed at the  
1 17 person's expense. The highway authority shall assess the  
1 18 removal cost.

1 19 2. An obstruction on a secondary road shall only be  
1 20 removed by the highway authority after a majority of its  
1 21 members have voted to approve its removal and after  
1 22 forty-eight-hour notice served in the same manner in which  
1 23 original notice is served, or in writing by certified mail, or  
1 24 in any other manner reasonably calculated to apprise the  
1 25 person responsible for the obstruction that the obstruction  
1 26 will be removed at the person's expense. The highway  
1 27 authority shall assess the removal cost. The highway  
1 28 authority shall have no liability in damages for removal of an  
1 29 obstruction.

1 30 3. Upon removal of the obstruction, the highway authority  
1 31 may immediately send a statement of the cost to the person  
1 32 responsible for the obstruction. If within ten days after  
1 33 sending the statement the cost is not paid, the highway  
1 34 authority may institute legal proceedings to collect the cost  
1 35 of removal. The removal costs shall be assessed against the

2 1 following persons, as applicable:

2 2 a. The vehicle owner in the case of an abandoned vehicle.

2 3 b. The abutting property owner in the case of a fence,  
2 4 other than a right-of-way line fence, or other temporary  
2 5 obstruction placed within the highway right-of-way by the  
2 6 owner or tenant of the abutting property.

2 7 c. The owner or person responsible for placement of any  
2 8 other obstruction.

2 9 4. All removals shall be without liability on the part of  
2 10 any officer ordering or effecting such removal.

2 11 Sec. 2. Section 318.10, Code 2007, is amended to read as  
2 12 follows:

2 13 318.10 FENCES.

2 14 1. The following shall apply to the removal of fences on  
2 15 primary roads:

2 16 ~~1. a.~~ A fence which constitutes an immediate and  
2 17 dangerous hazard shall, without notice or liability in  
2 18 damages, be removed by the highway authority. In all other  
2 19 cases where a fence is an obstruction in a highway  
2 20 right-of-way, notice in writing of not less than thirty days

2 21 shall be given to the owner, occupant, or agent of the land  
2 22 enclosed by the fence.

2 23 ~~2-~~ b. The notice shall, with reasonable certainty,  
2 24 specify the line to which the fences shall be removed and  
2 25 shall be served in the same manner that original notices are  
2 26 required to be served, or in writing by certified mail, or in  
2 27 any other manner reasonably calculated to apprise the person  
2 28 responsible for the fence.

2 29 2. In all cases where a fence is an obstruction on a  
2 30 secondary road removal shall be accomplished in the same  
2 31 manner as provided in section 318.5, subsection 2.

2 32 3. The department and the county engineer, or the board of  
2 33 supervisors if a county engineer is not available, may  
2 34 designate the location of a fence within a highway  
2 35 right-of-way. A fence that is not properly located within the  
3 1 highway right-of-way shall be removed within a time prescribed  
3 2 to a designated location. If not so removed, the highway  
3 3 authority may remove the fences and recover costs as provided  
3 4 in section 318.5.

3 5 Sec. 3. Section 318.11, Code 2007, is amended to read as  
3 6 follows:

3 7 318.11 BILLBOARDS AND SIGNS.

3 8 1. ~~No~~ A billboard or advertising sign or device, except a  
3 9 sign or device authorized by law or approved by the highway  
3 10 authority, shall not be placed or erected upon a highway  
3 11 right-of-way.

3 12 2. A billboard or advertising sign, whether on public or  
3 13 private property, that obstructs the view of any portion of a  
3 14 public highway or of a railway track making the use of the  
3 15 traveled portion of the right-of-way dangerous is a public  
3 16 nuisance and shall be abated. In addition to abatement of the  
3 17 nuisance under section 318.6, a highway authority may use  
3 18 procedures in section 318.5, subsection 2, to remove  
3 19 billboards and advertising signs which constitute an

3 20 obstruction on secondary roads. The person responsible for  
3 21 the erection and maintenance of the billboard or sign may be  
3 22 punished as provided in chapter 657.

3 23 EXPLANATION

3 24 Currently, highway authorities are allowed to remove,  
3 25 without notice or liability in damages, any obstruction which  
3 26 constitutes an immediate and dangerous hazard. Highway  
3 27 authorities are also allowed to remove obstructions which are  
3 28 not immediate or dangerous hazards after 48-hour notice is  
3 29 served, notice is provided in writing by certified mail, or  
3 30 notice is provided that is reasonably calculated to apprise  
3 31 the person responsible for the obstruction that it will be  
3 32 removed at the person's expense.

3 33 This bill changes the procedure for removing highway  
3 34 obstructions from secondary roads. The bill requires that an  
3 35 obstruction on a secondary road only be removed by the highway  
4 1 authority after a majority of its members have voted to  
4 2 approve its removal and after the 48-hour notice is served,  
4 3 notice is provided. The highway authority is also required to  
4 4 assess the removal cost to the person responsible for the  
4 5 obstruction. The bill also makes the removal procedure for  
4 6 obstructions on secondary roads applicable to fences, signs,  
4 7 and billboards which constitute obstructions.

4 8 The bill does not affect removal of obstructions from  
4 9 primary roads.

4 10 LSB 5053YH 82

4 11 md/rj/5